

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

UNITED STATES

v.

Case No. 3:18-cr-25

BENJAMIN DRAKE DALEY

**REPLY MOTION IN SUPPORT OF RELEASE FROM DETENTION**

In response to Mr. Daley's motion, the Government has put forth the position that Mr. Daley is not entitled to another detention hearing before the magistrate court in the charging jurisdiction, having had a detention hearing in the arresting jurisdiction. Under 18 U.S.C. § 3142(f)(2), a detention hearing may be reopened, "before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community." 18 U.S.C. § 3142(f)(2) must be read in concert with 18 U.S.C. § 3145(b), and Federal Rule of Criminal Procedure 40(c), which states that a magistrate judge "may modify any previous release or detention order issued in another district, but must state in writing the reasons for doing so." Mr. Daley did not seek release at his detention hearing in the Central District of California, and presented no evidence of a release plan at that time. Today, he will have witnesses testify in support of his release plan that includes a third party custodian and home confinement with electronic monitoring.

Respectfully submitted,

BENJAMIN DALEY

By Counsel

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 3, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: counsel of record; and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: none

/s/ Lisa M. Lorish

Assistant Federal Public Defender